

# *St. Louis City Ordinance 63446*

FLOOR SUBSTITUTE

BOARD BILL NO. [94] 364

INTRODUCED BY ALDERMAN GERALDINE OSBORN

An Ordinance recommended by the Airport Commission and the Board of Estimate and Apportionment authorizing and directing the Director of Airports and the Comptroller of the City of St. Louis to enter into and execute on behalf of the City of St. Louis, a Land Lease between the City of St. Louis and the United States of America, Department of Transportation Lease No. DTFA09-94-L-10648, which is attached hereto as Exhibit "A" and incorporated herein; and containing an emergency clause.

BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

SECTION ONE. The Director of Airports and the Comptroller of the City of St. Louis are hereby authorized and directed to execute on behalf of the City of St. Louis, a Lease between the City of St. Louis and the United States of America, Department of Transportation Lease No. DTFA09-94-L-10648, which is attached hereto as Exhibit "A" and incorporated herein.

SECTION TWO. This being an Ordinance necessary for the immediate preservation of the public safety and welfare, it is hereby declared to be an emergency measure within the meaning of Article IV, Sections 19 and 20 of the City Charter and shall become effective immediately upon approval of the Mayor.

EXHIBIT "A"

DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

601 EAST 12TH STREET

FEDERAL OFFICE BUILDING

KANSAS CITY, MISSOURI 64106

Lease No. DTFA09-94-L-10648

Facility Airport Traffic Control Tower

(ATCT)

Location Lambert-St. Louis International

Airport, St. Louis, Missouri

LEASE

between

CITY OF ST. LOUIS

and

THE UNITED STATES OF AMERICA

THIS LEASE, made and entered into this day of , in the year one thousand nine hundred and ninety-five, by and between the City of St. Louis whose address is: P.O. Box 10212, St. Louis, MO 63145, for itself or its successors, and assigns, hereinafter referred to as the Lessor and the United States of America, hereinafter referred to as the Government:

WITNESSETH: The parties hereto for the consideration hereinafter mentioned covenant and agree as follows:

1. TERM.

For the term beginning January 1, 1995, and ending September 30, 1995, the Lessor hereby leases to the Government the following described property, hereinafter referred to as the premises, viz:

See Attached Drawings and Descriptions

Final As-Built Drawings and Legal Descriptions of the premises shall be provided by the Government upon Government occupancy of the ATCT.

(a) Together with a right-of-way for ingress to and egress from the premises; a right-of-way for establishing and maintaining a pole line or pole lines for

extending electric power and/or telecommunication lines from the existing ATCT to the ductbank; and a right-of-way for subsurface power, communication and/or water lines to the premises; all rights-of-way to be over the said lands and adjoining lands of the Lessor, and unless herein described, to be routes reasonably determined to be the most convenient to the Government.

(b) And the right of grading, conditioning, and installing drainage facilities, and seeding the soil of the premises, and the removal of all obstructions from the premises which may constitute a hindrance to the establishment and maintenance of Government facilities.

(c) And, upon obtaining prior written approval from the City of St. Louis Airport Authority, the right to make alterations, attach fixtures, and erect additions, structures, or signs in or upon the premises hereby leased, which alterations, fixtures, additions, structures or signs so placed in or upon, or attached to the said premises shall be and remain the property of the Government, and may be removed upon the date of expiration or termination of this lease, or within ninety (90) days thereafter, by or on behalf of the Government, or its grantees, or purchasers of said alterations, fixtures, additions, structures, or signs.

## 2. RENEWAL.

This lease may, at the option of the Government, be renewed from year to year without rental charge and otherwise upon the terms and conditions herein specified. The Government's option shall be deemed exercised and the lease renewed each year for one year unless the Government gives 90 days notice that it will not exercise its option, before this lease or any renewal thereof expires; PROVIDED, that no renewal thereof shall extend the period of occupancy of the premises beyond September 30, 2020.

## 3. CONSIDERATION.

The Government shall pay the Lessor no monetary consideration in the form of rental, it being mutually agreed that the rights extended to the Government herein are in consideration of the obligations assumed by the Government in its establishment, operation, and maintenance of facilities upon the premises hereby leased.

## 4. TERMINATION.

The Government may terminate this lease, in whole or in part, at any time by giving at least ninety (90) days notice in writing to the Lessor. Said notice shall be sent by United States certified or registered mail.

## 5. RESTORATION.

The Government shall surrender possession of the premises upon the date of expiration or termination of this lease.

The Government shall within ninety (90) days after such expiration or termination, or within such additional time as may be mutually agreed upon, restore the premises to as good condition as that existing at the time of the Government's initial entry upon the premises under this lease or any preceding lease (changes to the premises in accordance with paragraph 1(a), 1(b) and 1(c) above, ordinary wear and tear, damage by natural elements and by circumstances over which the Government has no control excepted).

## 6. INTERFERENCE WITH GOVERNMENT OPERATIONS.

The Lessor agrees not to erect or allow to be erected any structure or obstruction of whatsoever kind or nature on the site or adjoining land within the airport boundaries that may interfere with the proper operation of the facilities installed by the Government under the terms of this Lease unless consent hereto shall first be secured from the Government in writing.

## 7. FUNDING RESPONSIBILITY FOR GOVERNMENT FACILITIES.

The Lessor agrees that any relocation, replacement, or modification of any existing or future Government facilities or component thereof, covered by this Lease during its term or any renewal thereof made necessary by airport improvements or changes which impair, interrupt, or interfere with the technical and/or operational characteristics of the Government facilities will be at the expense of the Lessor, except when such improvements or changes are made at the written request of the Government. In the event such relocations, replacements, or modifications are necessitated due to causes not attributable to either the Lessor or the Government, funding responsibility shall be determined by agreement between the Government and the City of St. Louis Airport Authority.

## 8. CLAUSES

52.252-2 CLAUSES INCORPORATED BY REFERENCE. (JUN 1988)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available.

NOTICE.--The following contract clause or clauses pertinent to this section are hereby incorporated by reference:

I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1)  
CLAUSES

52.203-1 OFFICIALS NOT TO BENEFIT. (APR 1984)

52.203-3 GRATUITIES. (APR 1984)

52.203-5 COVENANT AGAINST CONTINGENT FEES. (APR 1984)

52.203-7 ANTI-KICKBACK PROCEDURES. (OCT 1988)

52.233-1 DISPUTES. (DEC 1991)

9. NOTICES.

All notices shall be in writing and sent by United States Certified or Registered mail, return receipt requested, and shall be addressed as follows (or to such other address as either party may designate from time to time by notice to the other):

TO LESSOR:

City of St. Louis Airport Authority

ATTN: Properties Management

P.O. Box 10212

St. Louis, MO 63145

TO GOVERNMENT:

Federal Aviation Administration

ATTN: ACE-22C

601 East 12th Street

Kansas City, MO 64106

General correspondence may be forwarded to the above address via first class mail.

#### 10. LIABILITY CLAUSE.

In accordance with and subject to the conditions, limitations and exceptions set forth in the Federal Tort Claims Act of 1948, as amended (28 USC 2671 et. seq.), hereafter termed "the Act", the Government will be liable to persons damaged by any personal injury, death or injury to or loss of property, which is caused by a negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment under circumstances where a private person would be liable in accordance with the law of the place where the act or omission occurred. The foregoing shall not be deemed to extend the Government's liability beyond that existing under the Act at the time of such act or omission or to preclude the Government from using any defense available in law or equity.

#### 11. HAZMAT LIABILITY CLAUSE.

The FAA agrees to remediate, at its sole cost, all hazardous substance contamination on the leased premises that is found to have occurred as a direct result of the installation, operation, and/or maintenance of the Airport Traffic Control Tower (ATCT), Base Building, and Duct Bank. The Lessor agrees to remediate, at its sole cost, any and all other hazardous substance contamination found on the leased premises. The Lessor also agrees to save and hold the FAA and the United States harmless for any and all costs, liabilities and/or claims by third parties that arise out of hazardous substance contamination found on the leased premises not directly attributable to the installation, operation and/or maintenance of the ATCT, Base Building, and Duct Bank.

#### 12. PARKING.

The Airport Authority shall provide 60 parking spaces for ATCT employees. As of the date the ATCT employees occupy the Airport Traffic Control Tower, the parking area shall be located in the main terminal garage, in a designated area, secured from use by unauthorized personnel. Access shall be available from the parking area to the main entrance of the ATCT on a 24-hour per day, seven day per week basis. If at any time during the term of this lease or any

renewal thereof, circumstances require that the parking area be relocated, replace or modified, the Lessor has the right, through the Director of Airports, to relocate, replace or modify the parking area. If such relocation, replacement or modification of the parking is necessary, ATCT employees will be provided with parking accommodations comparable to those stated in this lease and which are acceptable to the Government. The Airport shall make every effort possible to give the Government at least three (3) months notice in writing of any relocation, replacement or modification to the parking area.

### 13. STAGING AREA.

In accordance with Drawing CE-E-7918-GO2, a staging area has been set aside for the period of the construction of the Airport Traffic Control Tower, for use by the contractor, subcontractors and other necessary personnel involved in construction of the ATCT. Upon completion and commissioning of the ATCT, the area set aside for staging over and above the actual lease boundaries shall be returned to the Airport in its entirety, restored to its original condition. The staging area will be bounded on two sides by a temporary blast fence and on the other two sides by a construction chain link fence. The blast fence is approximately 135'2" x 239'4" with the east edge of the blast fence at the edge of the sidewalk on the west side of Concourse "B" approximately 15' from the building; the south edge of the fence is approximately 24' from the existing curb next to the terminal.

### 14. OVERHEAD WALKWAY.

The Government shall have the rights to install and maintain an elevated walkway and its supports to connect the ATCT to the main terminal for ingress to and egress from the ATCT, per Drawing CE-E-7917-A4. The Airport shall provide a mounted, lighted sign in the terminal near the entrance to the walkway to identify the FAA ATCT.

### 15. DUCTBANK.

Per drawings CE-E-7918-C6, -C7, -C8, a concrete encased ductbank shall be installed from the existing ATCT to the new ATCT. The ductbank shall consist of twenty 4" conduits containing fiber optic and copper control cabling. The ductbank trench shall also be used for electric power and natural gas access to the site.

### 16. ADDITIONAL PROVISIONS.

This lease is subject to the additional provisions set forth below, or attached hereto and incorporated herein. These additional provisions are identified as follows:

- (a) The Federal Aviation Administration shall have the right to install and maintain, within the ductbank, all underground cables necessary for the operation of the facility.
- (b) The Lessor shall provide snow removal on access roads serving the facility at its earliest convenience.

#### 17. WARRANTIES.

The Lessor hereby warrants that it has acquired and possesses an adequate real estate right in the property described herein, and that it is authorized to grant to the United States of America real estate rights and interests set forth herein.

#### 18. TOWER OPERATIONAL AGREEMENT.

The Operational Agreement for Airport Traffic Control Tower No. DTFA09-94-A-10200 between the Lessor and the Government is incorporated into this lease by reference.

IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names as of the date above written.

LESSOR

BY

(signature)

(official title)

IN PRESENCE OF:

(signature)

(official title)

UNITED STATES OF AMERICA

BY

(signature)

Contracting Officer

(official title)

IN WITNESS WHEREOF, the parties hereto affixed their hands and seals as set forth below for themselves, their successors and assigns.

Pursuant to City of St. Louis Ordinance approved .

THE CITY OF ST. LOUIS, MISSOURI, OPERATING LAMBERT ST.  
LOUIS INTERNATIONAL AIRPORT:

The foregoing Lease was approved by the Airport Commission at its meeting on , 1995.

Commission Chairman Date

and Director of Airports

The foregoing Lease was approved by the Board of Estimate and Apportionment at its meeting on , 1995.

Secretary, Date

Board of Estimate & Apportionment

APPROVED AS TO FORM:

City Counselor

City of St. Louis

Date Comptroller, Date

City of St. Louis

Register, Date

City of St. Louis

## CORPORATE CERTIFICATE

(To be executed by the Secretary or the Assistant Secretary)

I, , certify that I am the Secretary of the corporation named in the attached agreement, that who signed said agreement on behalf of the corporation was then of said corporation, that said agreement was duly signed for and in behalf of said corporation by authority of its governing body, and is within the scope of its corporate powers.

Title

CORPORATE SEAL

Agreement No: DTFA09-95-A-10200

Lambert-St. Louis

International Airport

St. Louis, Missouri

DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

OPERATION AGREEMENT FOR AIRPORT TRAFFIC CONTROL TOWER

(Constructed by the Government)

1. THIS AGREEMENT is to be attached to and made a part of Lease No. DTFA09-94-L-10648 between the United States of America acting by and through the Federal Aviation Administration, hereinafter called the Government, and the City of St. Louis Airport Authority, operating its airport known as LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT; located in St. Louis County, Missouri, hereinafter known as Lessor, and this said Agreement shall be executed by the parties hereto independently of said lease to which it is a part.

2. WHEREAS, an Airport Traffic Control Tower will be or has been erected on the leased plot by and at the expense of the Government; and

3. WHEREAS, it is in the public interest that the said Airport Traffic Control Tower on the above airport be operated by the Government, subject to the availability of funds therefore, in accordance with standards established by the Government;

4. NOW THEREFORE, the Lessor agrees to the following conditions:

a. A Lessor shall, at no expense to the Government, provide the lighting control panels in the said Tower and shall provide all electrical circuits and current, on a continuing basis, necessary for the operation of boundary, flood, and obstruction lights, including those which may be operated by the Government; all airport lighting which the Government determines is essential to aircraft operations, including the foregoing, and all such air traffic control devices which are designated to be directly or remotely controlled from the Airport Traffic Control Tower shall be operationally under the Control of the Government's Air Traffic Controllers. The Government will be responsible for the maintenance of those facilities installed by the Government, and the Lessor shall be responsible for the proper and continued functioning of any other locally-installed lights or other device placed under the Government's control.

b. The Lessor shall be responsible for the proper and continued functioning of all equipment and devices which the Government determines are necessary for air traffic control, but which cannot be placed in operation or controlled from said Tower, or are not otherwise operated by or under the control of the Government.

c. The Lessor shall promptly advise the Government's duly authorized representative(s) in said Tower of any conditions which render all, or any, area(s) of the Airport unsafe for normal utilization by aircraft and will, upon demand, appropriately mark any such area(s) in a manner approved by the Government which properly indicates the existing condition(s); the Lessor shall promptly give notice to the Government's Tower representative(s) prior to the time any routine maintenance or construction is begun on the airport landing area unless such action is in accordance with a schedule which has been previously coordinated with the said Tower; said notice shall be given less than thirty (30) days prior to the commencement date and said approved schedules shall be submitted for approval no less than thirty (30) days prior to the scheduled date for beginning the first item of construction and/or routine maintenance on the schedule.

d. The Government shall have absolute control of the operation of said Tower and its associated facilities at all times and shall not be subject to direction from the Lessor in this regard, but the Lessor shall indemnify and save harmless the Government from and against all loss, injury, or damage and any claims for such acts resulting from or incident to the operation of said Tower; provided, however, the Lessor shall not be responsible for any such acts or claims resulting from the negligent or wrongful act or omission of any employee operating in said Tower. In accordance with and subject to the conditions, limitations, and exceptions set forth in the Federal Tort Claims Act of 1948, as amended (28 USC 2671 et. seq.) hereafter termed "the Act" the Government will be liable to persons damaged by a personal injury, death, or injury to or loss of property, which is caused by a negligent or wrongful act or omission of an employee of the Government while acting within the scope of his office or employment under circumstances where a private person would be liable in accordance with the law of the place where the act or omission occurred. The foregoing shall not be deemed to extend the Government's liability beyond that existing under the Act at the time of such act or omission or to preclude the Government from using any defense available in law or equity.

e. The Lessor, upon request from the Government, agrees to provide two-way ground control communication equipment in its maintenance and emergency vehicles scheduled to regularly operate in the airport landing area, and such equipment shall be capable of maintaining radio communications with the Government's Tower on said airport.

f. The Lessor agrees to pay (and the Government shall not pay any part of such costs other than those provided by any existing Federal Aid to Airports Programs) for the relocation of said Tower and its associated facilities if such relocation is made necessary by airport improvements or changes which impair the technical and/or operational characteristics of said Tower and its associated facilities.

Dated this, the day of , 19 .

LESSOR: CITY OF ST. LOUIS AIRPORT AUTHORITY  
BY

Director of Airports

(Official Title)

In Presence of:

(Signature)

(Official Title)

THE UNITED STATES OF AMERICA

BY

Real Estate Contracting Officer

Sally J. Chafa

**CORPORATE CERTIFICATE**

I, , CERTIFY that I am the of the Corporation named as Lessor in the above Agreement; that , who signed said Agreement on behalf of the Lessor, was then , of said Corporation; that said Agreement was duly signed for an in behalf of said corporation by authority of its governing body, and is within the scope of its corporate powers.

(CORPORATE SEAL)

Legislative History				
1ST READING	REF TO COMM	COMMITTEE	COMM SUB	COMM AMEND
01/13/95	01/13/95	T&C		
2ND READING	FLOOR AMEND	FLOOR SUB	PERFECTN	PASSAGE
01/20/95			01/27/95	02/02/95
ORDINANCE	VETOED		VETO OVR	
63446				